

Message Text

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21

ACTION XMB-04

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FM AMEMBASSY TAIPEI

TO SECSTATE WASHDC 8492

UNCLAS TAIPEI 0951

PASS: EXIM BANK

E.O. 11652: N/A

TAGS: EFIN, TW

SUBJECT: BANK GUARANTEE OF YUAN-I INDUSTRIAL CO. DEBT

REF: STATE 024271

1. EMBASSY OBTAINED COPY OF YUAN-I LETTER TO EXIMBANK DATED JANUARY 19, 1976. ALSO CONTACTED MESSRS. H. W. KUNG OF MINISTRY OF FINANCE, C. V. CHEN OF LEE & LI AND CHING-HEE YANG OF YUAN-I. CHEN SAID: (A) HE WROTE EXIM BANK THAT YUAN-I'S INTERPRETATION OF ARTICLE 30 OF BANKING LAW WAS WRONG AND HE UNDERSTANDS PURPOSE OF THAT ARTICLE IS TO MAKE AVAILABLE A SIMPLIFIED SECURITY DEVICE COMMONLY KNOWN AS "NEGATIVE PLEDGE" MEANING PROMISE BY BOARD OF A COMPANY TO RESERVE SPECIFIED PROPERTY AS SECURITY AGAINST A LOAN AND THAT SUCH PROPERTY WILL NOT BE PLEDGED TO ANOTHER CREDITOR; (B) UNDER PRESENT CIRCUMSTANCES HE DOES NOT BELIEVE EXIMBANK SHOULD ACCEPT SUCH A "NEGATIVE PLEDGE" FROM YUAN-I AS SUBSTITUTE FOR BANK GUARANTEE; (C) CHEN SUGGESTED INSTEAD OF A FORMAL BANK GUARANTEE, YUAN-I MIGHT BE ABLE FURNISH A "DELAYED" (OR "CONDITIONAL" OR "CONTINGENT") BANK GUARANTEE WHICH WOULD ONLY BECOME A FORMAL BANK GUARANTEE UPON REQUEST OF EXIMBANK IN CASE YUAN-I FAILS TO HONOR ITS DEBT OBLIGATION;

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(D) ADVANTAGES OF "DELAYED" BANK GUARANTEE TO YUAN-I

INCLUDE: I) IT IS NOT A BANK GUARANTEE AS LONG AS YUAN-I HONORS ITS DEBT REPAYMENTS AND HENCE ITS CREDIT STANDING WOULD NOT BE ADVERSLY AFFECTED; II) COST TO YUAN-I ASSOCIATED WITH "DELAYED" BANK GUARANTEE WILL PROBABLY BE LESS THAN FOR A FORMAL BANK GUARANTEE; AND III) PROTECTION OF EXIMBANK'S INTEREST SAME AS A FORMAL BANK GUARANTEE.

2. YUAN-I TOLD MOF, EMBASSY AND LEE & LI THAT ITS BUSINESS IS DEFINITELY GETTING BETTER. IT HAS SUFFICIENT ORDERS FOR FULL OPERATION UNTIL END OF JUNE. MOF ASKED TO BE FURNISHED COPIES OF FIRM ORDERS. YUAN-I ASSURED PARTIES CONCERNED THAT IF A "DELAYED" BANK GUARANTEE IS FOUND NOT FESSIBLE,THEY WILL PROCEED TO GET A BANK GUARANTEE FOR EXIMBANK.

3. ASSUMING "DELAYED" BANK GUARANTEE IS POSSIBLE AND THAT EXIMBANK RIGHTS CAN BE FULLY PROTECTED, EMBASSY BELIEVES THIS IS REASONABLE "COMPROMISE" TO HELP YUAN-I. HOWEVER, SUCH A DEVELOPMENT SEEMS UNLIKELY SINCE PROBABLY NO BANK WOULD AGREE TO SUCH AN ARRANGEMENT WITHOUT CHARGE. IN VIEW OF COMPANY'S BAD RECORD, EMBASSY BELIEVES EXIMBANK SHOULD MAINTAIN PRESSURE ON YUANAI WHILE IRON IS STILL HOT, MAINTAINING MOMENTUM GAINED BY BOGDANOFF VISIT AND ORAL COMMITMENT BY VICE MINISTER OF FINANCE WANG TO ASSIST. IT SEEMS TO US TIME TO GET GUARNATEE IS WHILE THINGS ARE GOOD, NOT AFTER A COMPANY IS IN TROUBLE. POPPLE

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